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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/637,387	08/11/2000	Amy Haugen	2829-140	8884

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EXAMINER

JANVIER, JEAN D

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 06/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/637,387

Applicant(s)

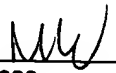
ROWNEY ET AL

Examiner

Jean D Janvier

Art Unit

3622



--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 May 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 3-15 and 30.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

Jean D Janvier  
Examiner  
Art Unit: 3622

Continuation of 5. does NOT place the application in condition for allowance because: Independent claim 16 recites, among other things "one or more merchant devices including a merchant application module for communicating over the network" and "an application service provider device coupled to the one or more merchant devices and having a local database for storing promotional content information, the application service provider device being adapted to distribute the promotional content information ....", which were not previously disclosed. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 16-29 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03. Here, contrary to the Applicant's remarks, the newly added claims require further search and further consideration. Furthermore, the invention disclosed in claims 3-15 and 30 do not require the new elements of claims 16, for example, for patentability. Hence, claims 16-29 are patentably distinct from claims 3-15 and 30. Therefore, the withdrawal of claims 16-29 from further consideration stands as set forth in the last Office Action.

Second, the title is not objected to because of its length, but because it is not technically accurate. In other words, the title proposed or submitted by the Applicant does help one skilled in the art understand the nature of the claimed invention. See the Examiner's suggested title as set forth in the last Office Action.

Third, the objections to claim 30 is meant to remind the Applicant that each element recited therein performs the same task and therefore, the elements are being considered in the alternative for examination purpose.

Finally, the remaining portions of the arguments have already been addressed in the rejection of the claims as set forth in the last Office Action. See below.

As per claims 3, 10 and 13, Biorge teaches a system for providing incentive credits to a user or customer participating in or more promotion programs via a handheld or portable device (client-user device) 74 for every qualifying transaction conducted at a participating retailer or provider having a provider device 76 wherein the value of the incentive credits is contingent upon the value of a current transaction and wherein the customer's incentive credits are stored on the memory of the portable or handheld device 74 where they can be retrieved during a redemption process. At any given time subsequent to storing the incentive credits on the customer's handheld device, the customer can take the said device 74 to the same retailer or another participating retailer or provider to redeem at least a portion of the incentive credits during a second transaction or a redemption process wherein the stored incentive credits are transmitted from the customer's handheld device 74 to the retailer's POS system or base device 72 (during a synchronization process). In addition, during the redemption process or second transaction (synchronization process), the retailer's POS system or base device 72 transfers newly earned incentive credits to the customer's handheld device 74 permanent memory, based on the value of the second transaction and some other criteria, where they are being added to the existing credit balance (receiving at a client-user device 74 award transaction data or award credits during a transaction from a first base device 72 linked to client-user device or customer device 74 and provider device 76 to form a network or system 70 and wherein the system or network 70 is connected in real-time via a communication link 112 to a record-keeping facility or central authority or the outside world over a communications network-fig.3; col. 10: 65 to col. 12: 10; col. 13: 4 22; col. 14: 1-12; col. 15: 28-53).

(See abstract; col. 2: 18 to col. 3: 21; col. 6: 49 to col. 7: 64; figs. 1-3).

At the conclusion of the redemption process or a transaction, the incentive credit total is updated by adding newly earned incentive credits to the existing remaining total following a redemption process. Thereafter, information regarding the transaction that just takes place is stored in the memory of the customer's device 74, in the memory of the provider's 76 and in the memory 102 (local award history database) of the retailer's POS system or base device 72. In the customer's device 74 memory, information such as the transaction amount, the incentive credits earned, the amount of redeemed incentive credits, if any, the name of the provider 76, the product or service purchased is recorded to maintain a journal of all transactions made using this device. Similar information is stored in the memory of the provider 76. In the memory 102 (local award history database) of the base device 72 of fig. 3 or POS system, complete information regarding the transaction, including the identification of the customer and the provider, the transaction amount, the incentive credits earned and redeemed, the good or service purchased and the customer's demographics are recorded thereon (this scenario repeats itself for each single transaction whether it involves a redemption or not). Since the whole process is being conducted off-line, without involving any common authority, the retailer's POS system or the base device 72 will transmit over the communications network the data, including the award information or award credits earned or redeemed, stored in its database 102 (local award history database) to a central repository or data warehouse (global award history database) coupled to a computer system or server related to a record-keeping facility or common authority where the data are maintained and utilized for coordinating allocation and redemption of incentive credits among the various providers involved and to further target customers of devices 74, to prevent unauthorized use of the devices 74 and/or to authorize a higher incentive credit allocation and/or redemption level (higher level of authentication) during a transaction or redemption process whereas the POS system or base device 72, providing or handling a low level authentication transaction, cannot process an incentive allocation or redemption process that exceeds a certain preset threshold value (Transaction data including award information or award credits earned or redeemed during a transaction between client-user device 74 and base device 72 are stored in a local history database 102 coupled to a processor or local server 100 of the network or system 70 (LAN) of fig. 3 and wherein the content of the local history database 102 is subsequently transmitted over a communication network (WAN or the Internet) to a global history database coupled to a server for further analysis and wherein the global history database contains information on credits redemption and allocation limits associated with the user of the client-user device 74 and used during a transaction at the retailer's POS or base device 72 to determine for example whether or not the number of award credits that the user wants to redeem is within a preset redemption limit and wherein the user's transaction history is retrieved during a transaction at the POS when the client device 74 communicates with the common authority associated with the global history database to determine if the user's current transaction fits the user's transaction pattern to thereby prevent fraudulent use of the client-user device 74- col. 13: 4-19; col. 15: 7-53).

(See col. 6: 32 to col. 7: 64; col. 8: 66 to col. 9: 35).

Additionally, in another embodiment, Biorge discloses a process of authenticating or validating a customer's device 74 and the customer

himself during a verification process that takes place at the POS system without the input from a common authority, based in part on data stored in base device memory 102 related to network or system 70 (low level authentication). This routine verification occurs during a transaction with or without a redemption process. This routine verification is a twofold process. First of all, the customer's device 74 is checked to determine if it is a proper device for use in the incentive program by having the device 74 exchanged encrypted signals with the base device 72. Second of all, a customer's verification is performed by having him enter a preset user code and comparing the entered user code to a reference user code stored in the memory of the device 74. Only if both the device 74 and the customer are valid will a transaction with or without a redemption process be allowed. In fact, to redeem incentive credits or to earn incentive credits during a transaction at a participating provider, the customer or the bearer of the device 74 must go through the routine verification as disclosed above (low level verification or low level authentication). Following this routine authentication or low level authentication process, the customer of the validated device 74 is allowed by the device 72 to redeem at least a portion of previously earned incentive credits, provided that this portion does not exceed a preset threshold, during a current transaction at a participating provider in accordance with predefined rules or criteria maintained in the global history database of the common authority available online over the communication network (col. 4: 62 to col. 5: 33; col. 10: 65 to col. 11: 20; col. 7: 4-64; col. 12: 38 to col. 13: 3).

Moreover, in response to a request from the device 72 to specify how many incentive credits the customer wishes to redeem, the customer enters via keyboard 110 the number of previously earned incentives he wishes to use or redeem and the specified number is sent to base device 72 (POS system) processor 110, which determines based on information in memory of the base device 72 (award history database), related to local network 70, if this number exceeds authorized limits. In the affirmative, base processor 100 of the base device 72 enters into an online interaction or communication with a remote common authority (record-keeping facility), having stored in a global history database the customer's transaction data and preset credit redemption and/or credit allocation limits, to obtain further authorization to redeem the exceeded value (high level of authentication required here because the customer's request has exceeded a preset value as determined by base device 72 processor 100 using data stored in its database). Nevertheless, if the specified number is within a predefined range, then the base processor 100 proceeds with the redemption process based on some criteria since the routine validation performed at the beginning of the transaction is sufficient for this kind of transaction (only a low level authentication is required here). During a typical transaction at a provider, processor 100 checks database 102 for more incentive codes for the current transaction and processes them along with other parameters to compute the amount of incentive credits that the customer earns during the transaction. If this value or amount falls within a predetermined range, as determined by processor 100, this amount is added to the memory of the customer's device 74 since the routine verification (low level authentication) performed at the beginning is required for this transaction. However, if the amount exceeds a preset limit, then base processor requires further authorization or authentication and enter into an online interaction with a common remote authority to obtain such authorization (high level authentication is needed because of the amount of incentive credits earned during the transaction) (Figs. 4b-4c; col. 13: 4 to col. 14: 22; col. 15: 15 to col. 16: 7).

In addition, even if during a regular transaction in which the routine validation process (low level authentication) is sufficient to conduct the transaction involving incentive credits allocation and/or redemption, the base processor 100 of the base device 72 may request further authorization (high level authentication) from a remote common authority on how to proceed when a customer's transaction seems to depart from the customer's transaction pattern, thereby preventing unauthorized users from using devices 74, which may have been lost. It is further to be understood that, following the routine validation or verification of the client-user device 74 and the user himself, the user may decide to redeem an exceeded number of credits that require further authority (authentication) from the online common authority, coupled to the global history database storing preset credit redemption limit or credit allocation limit and transaction history including credits redeemed and earned related to the user. Finally, during a transaction involving the client-user device 74 and base device or POS 72, subsequent to conducting the routine authentication or verification (low level authentication), the client-user device 74 communicates with the online common authority, over a communication network, which compares the user's transaction pattern stored in the global history database to the current transaction to thereby prevent fraudulent use of the device 74 before base device 72 is allowed to process the user's transaction or redemption (high level authentication) (Col. 11: 21 to col. 12: 10; col. 15: 3 to col. 16: 7).

See figs. 1-9.

*Tanner Jean Davis*  
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